IN THE HIGH COURT OF JUDICTURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Darshan Singh & ors. Versus State of Rajasthan & Anr.

S.B. Criminal Misc. Petition No.985/2005

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Date of Order: July 24, 2007

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. S.S. Dhillon, for the petitioners.
Mr. V.R. Mehta, Public Prosecutor for the State.
Mr. Sandeep Mehta, for the respondent No.2.

BY THE COURT:

By the instant criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter), the petitioners have challenged the order dated 29-8-2005 passed by the Judicial Magistrate, Sangaria, district Hanumangarh (for short, "the trial Court" hereinafter) in Criminal Case No. 312/2005, whereby the trial Court took the cognizance of the offences under Sections 406 and 498-A, IPC and issued process against the petitioners.

Heard learned counsel for the parties and carefully gone through the order passed by the trial Court, as also the Challan papers and the statement of complainant -respondent No.2 Paramjeet Kaur alias Arshdeep Kaur under Section 200 of

the Code and Kuljeet Singh recorded under Section 202 of the Code.

It is contended by the learned counsel for the petitioners that petitioner No. 3 Jaswant Singh is a resident of village Sukna Ablo, tehsil Muktsar, district Faridkot (Punjab) and therefore he had no occasion to subject the complainant-respondent No.2 to cruelty and harassment in connection with demand of dowry. So far as petitioner No.1 Darshan Singh and petitioner No.2 Gurdas Kaur alias Hardas Kaur are concerned, they have been residing separately and, therefore, the allegations of harassment to the complainant-respondent No.2 in connection with demand of dowry and misappropriation of alleged entrusted property cannot be believed at all.

Learned Public Prosecutor and the counsel for the complainant-respondent No.2 have supported the order impugned and contended that there are specific allegations against all the three petitioners and, therefore, the trial Court was justified in taking cognizance of the offences and issuing process against the petitioners.

Respondent No.2 filed a complaint before the trial Court, which was sent to the Police Station, Sangaria for investigation under Section 156 (3) of the Code. After investigation, the police filed a negative final report. On a protest petition, the trial Court recorded the statement of the

complainant-respondent No.2 under Section 200 of the Code, as also the statement of Kuljeet Singh under Section 202 of the Code and took the cognizance of the offences and issued the process.

In the complaint, which was registered as an FIR, complainant-respondent No.2 stated that she married to Satatebdra Pal Singh on 26-11-1995 and at the time of marriage, the articles mentioned in the FIR were given as the dowry to her husband, petitioner No.1. Darshan Singh, petitioner No.2 Tai mother-in-law Gurdas Kaur alias Hardas Kaur and maternal-father-in-law PW 3 Jaswant Singh but they were not satisfied and demanded a car in dowry and on non-fulfillment of such demand, they used to harass her and gave her beatings. There had been some pursuation from the parents and brothers of the complainant, however without any result. Ultimately the petitioners and her husband turned her out from the matrimonial home and refused to return the dowry articles and as such misappropriated the same.

Similar is the statement made by the complainant-respondent No.2 under Section 161 of the Code before the police. The statements of Nasib Kaur, Kuljeet Singh and Gurjeet Singh are also similar to that of the statement made by the complainant-respondent No.2 under Section 161 of the Code. However, the police recorded the statements of Raghuveer

Singh, Tarsem Singh,Jasveer Singh, Pritam Singh and Baljindra Singh and on the basis of which filed the negative final report.

The complainant-respondent No.2 herself appeared before the trial Court and made statement under Section 200 of the Code and also produced Kuljeet Singh, whose statement was recorded under Section 202 of the Code and made the same statement as made in the FIR and the statements under Section 161 of the Code.

The statements of Raghuveer Singh, Tarsem Singh and Jasveer Singh are to the effect that petitioner No.1 Darshan Singh and petitioner No.2 Gurdas Kaur alias Hardas Kaur, who are husband and wife, have their separate house where they are residing. So far as petitioner No.3 Jaswant Singh is concerned, they have stated that he is residing in village Sukhna Ablo, tehsil Mukatsar, district Faridkot (Punjab) and used to come rarely.

On careful scrutiny of the statements of the witnesses recorded under Sections 161, 200 and 202 of the Code, in my view, the trial Court was justified in taking cognizance against petitioner No.1 Darshan Singh and petitioner No.2 Gurdas Kaur alias Hardas Kaur. Though a few witnesses have stated that they are residing separately but they are residing separately in the same premises and, therefore, it cannot be said that they had not subjected the complainant-respondent No.2 to cruelty and harassment as they are the

family members and relatives of the husband of the complainant-respondent No.2.

So far as petitioner No.3 Jaswant Singh is concerned, this fact has not been disputed even by the learned counsel appearing for the respondent No.2 that petitioner No.3 Jaswant Singh is residing in village Sukhna Ablo, tehsil Mukatsar, district Faridkot (Punjab) and if at all, being the maternal grand-father, he used to come occasionally but that has not been made specific. Even if a relative comes occasionally, it cannot be said that he has subjected the complainant-respondent No.2 to harassment and cruelty. Therefore, in my view, the trial Court fell in error in taking cognizance and issuing process against petitioner No.3 Jaswant Singh.

In this view of the matter, the criminal miscellaneous petition is partly allowed. The impugned order taking cognizance and issuing process against petitioner No.1 Darshan Singh and petitioner No.2 Gurdas Kaur alias Hardas Kaur is justified and, therefore, the petition filed by them stands dismissed. However, the impugned order taking cognizance and issuing process against petitioner No.3 Jaswant Singh is set aside.

(H.R. PANWAR), J.

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